

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1218

AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 26-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The corporation's board is created. The governing powers of the corporation are vested in the board, which is composed of thirteen (13) members as described in subsections (b) and (c).

(b) The board consists of the following ten (10) voting members:

- (1) Two (2) members appointed by the largest Indiana organization representing the interests of grain and feed dealers in Indiana.
- (2) Two (2) members appointed by the largest Indiana organization representing general farm interests in Indiana.
- (3) One (1) member appointed by the second largest Indiana organization representing general farm interests in Indiana.
- (4) One (1) member appointed by the largest Indiana organization exclusively representing the interests of corn producers.
- (5) One (1) member appointed by the largest Indiana organization exclusively representing the interests of soybean producers in Indiana.
- (6) ~~One (1) member~~ **Two (2) members** appointed by the largest Indiana organization representing the interests of bankers in Indiana.
- (7) ~~One (1) member~~ appointed by the second largest Indiana

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~~organization representing the interests of bankers in Indiana.~~

~~(8)~~ (7) One (1) member appointed by the largest Indiana organization representing the interests of the seed trade in Indiana.

The members appointed under subdivisions (2) through (5) must be producers.

(c) The board consists of the following three (3) nonvoting members:

(1) The attorney general.

(2) The treasurer of state.

(3) The director of the agency, who shall serve as the chairperson.

(d) The attorney general and treasurer of state may each designate a representative to serve on the board.

SECTION 2. IC 26-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The fund consists of money paid into the fund from the producers of grain under section 4 of this chapter.

(b) The expenses of administering the fund must be paid from money in the fund. After the fund reaches an amount in excess of ~~five million dollars (\$5,000,000)~~, **ten million dollars (\$10,000,000)**, the board may annually take not more than two hundred fifty thousand dollars (\$250,000) and allocate it to a separate administrative expenses account to pay administrative expenses. Administrative expenses under this section may include:

(1) processing refunds;

(2) enforcement of the fund;

(3) record keeping in relation to the fund; and

(4) the ordinary management and investment fees connected with the operation of the fund.

(c) Board approved legal fees and legal expenses in actions brought against the corporation, board, or fund must be paid from money in the fund. These fees and expenses are not administrative costs and may not be paid from the administrative expense account.

SECTION 3. IC 26-4-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The producer premiums required under section 4 of this chapter must be collected until the fund contains more than ~~ten million dollars (\$10,000,000)~~ **fifteen million dollars (\$15,000,000)** as of June 30 of any given year.

(b) Except as provided in subsection (c), after the fund reaches ~~ten million dollars (\$10,000,000)~~, **fifteen million dollars (\$15,000,000)**, the board may not require the collection of additional producer premiums until the amount in the fund drops below ~~five million dollars~~

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~~(\$5,000,000)~~ **ten million dollars (\$10,000,000)**, as determined under section 9 of this chapter. In a year when the board determines that the fund is at or below ~~five million dollars (\$5,000,000)~~, **ten million dollars (\$10,000,000)**, the board shall reinstate the collection described in this chapter.

(c) The board shall reinstate the collection described in this chapter if as of May 1:

- (1) the fund contains at least ~~five million dollars (\$5,000,000)~~; **ten million dollars (\$10,000,000)**;
- (2) the board is aware of a failure of a grain buyer; and
- (3) the amount of compensation from the fund to cover producers' claims, as determined by the board, is equal to or greater than the amount of money in the fund.

SECTION 4. IC 26-4-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) At the May meeting required under IC 26-4-3-5, the board shall certify the amount of money in the fund on May 1.

(b) Except as provided in section 8(c) of this chapter, the board may not require the collection of a producer premium during a fiscal year when the board certifies under subsection (a) that the fund has money in excess of ~~five million dollars (\$5,000,000)~~; **ten million dollars (\$10,000,000)**. If the fund is at or below ~~five million dollars (\$5,000,000)~~ **ten million dollars (\$10,000,000)**, the board shall reinstate the collection.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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